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LAURENCE E. GOLD
ALEXANDER W. DEMOTS
Of Counsel

January 26, 2009

Thomasenia P. Duncan
General Counsel
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Re: MUR 6021
America Coming Together

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
JAN 27 P 2:58

Dear Ms. Duncan:

Attached is the response to the complaint and the supplement to the complaint on behalf of respondent America Coming Together ("ACT"). We write separately in order to alert your office to a possible issue as to whether or not Chairman Walther should recuse himself from participating in this matter.

Complaint Exhibit 30, "Lawyers for Kerry Contact Sheet and Sign-Up Form" (copy attached), includes a state-by-state list of "Lawyers for Kerry-Edwards" during 2004. Chairman Walther, evidently in his then-capacity as a private practitioner, is listed as Kerry-Edwards's only "State Contact" in Nevada. No other exhibit, nor the complaint or the supplement, further refers to Chairman Walther. The complaint names as respondents other lawyers and persons in Nevada who allegedly participated in "attempting to deny Nader-Camejo ballot access in Nevada" (¶¶ 76-78, p. 30), and the complaint includes a section that describes this alleged effort (¶¶ 225-27, pp. 63-64). The Complaint includes numerous references to Exhibit 30 that illustrate the alleged connection of various respondent lawyers to respondent Kerry-Edwards, Inc., usually quoting (apparently sardonically) Exhibit 30's description elsewhere of lawyers recruited by Kerry-Edwards, Inc. in order "to monitor elections and enforce the law." See footnotes 57, 60, 61, 94, 96, 124 and 130, at pp. 32, 34, 50, 65 and 72 (copies of these excerpts are also attached).

We do not know either the nature or extent of Chairman Walther's connection with respondent Kerry-Edwards, Inc. during 2004, or whether or not Chairman Walther has any independent knowledge of the factual matters that are the subjects of the complaint. Nor are we privy to the Commission's internal recusal standards that derive, for example, from 5 C.F.R. § 7.7. We are aware that Member Sandstrom recused himself in MURs 4291, *et al.* because at least one document in the record of that case referred to him in a pre-Commissioner capacity, but

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we do not know the other circumstances of that recusal or whether or not the recusal was even required under the applicable standards.

Subject to those caveats, we do *not* believe that the listing of Chairman Walther in Exhibit 30 in itself warrants his recusal in this matter, and we are not requesting that he recuse himself. However, we believe that we are obligated to bring Exhibit 30 to the attention of your off so that it may receive appropriate consideration.

Yours truly,



Laurence E. Gold



Lyn Utrecht
Utrecht & Phillips
1133 Connecticut Avenue, NW
Suite 300
Washington, DC 20036
(202) 293-1177

Counsel for Respondent America Coming
Together

cc: Gary Gruver, CFO, ACT

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Exhibit 32

Lawyers for Kerry Contact Sheet and Sign-Up Form.

Kerry-Edwards

blog

volunteer center

Get Informed

John Kerry

Tarun Heing Kerry

John Edwards

Elizabeth Edwards

Press Room

Official Blog

Racial Resources

On The Road

Communities

En Español/Noi

Plan for America

National Security

Economy & Jobs

Health Care

Energy

Independence

Homeland Security

Education

Environment

More Issues...

Take Action

Contribute to DNC

Be a Volunteer

Volunteer Center

Recruit Friends

Voter Outreach

Contact Media

Raise Money

Plan/Attend Events

Multimedia

Videos

TV Shots

Photo Gallery

Downloads

Resources

Kerry Gear

Contact Us

In Your State

Register to Vote

Lawyers

Election Observation & Voter Education

It is a great injustice to us all when African-Americans are denied their fundamental right to vote. On Election Day in your city, my campaign will provide teams of election observers and lawyers to monitor elections and enforce the law. **BE - John Kerry**

Lawyers for Kerry-Edwards is working with the DNCAG's Voting Rights Institute (VRI) to organize thousands of attorneys across the country to be in every polling place on Election Day and to educate voters locally about their ballot, their voting machine and the voting process. Help safeguard the democratic process by signing up with the VRI today!

-Help Protect Democracy Today

Equal Opportunity for All

Every American should have the opportunity to succeed and to live the American dream. While America has made great strides toward true equality, much remains to be done and too often the progress we've made comes under attack. John Kerry and John Edwards will continue to fight for civil rights.

Equal Opportunity for All

Protecting Our Communities

John Kerry has always been tough on crime. As a prosecutor for one of America's largest counties, he prosecuted a murderer, a rapist and a mob boss. As an assistant District Attorney, he

Join Lawyers
Get involved too
Lawyers for Ken

Join today!

Local events
Get involved too
Lawyers for Ken
emailing our state
coordinators.

coordinator can

contribute to
Contributions to
Kerry-Edwards 2
Election Legal &
Compliance Fund
provide important
the campaign. GI
pay for legal and
expenses incurred
campaign.

make a contribu

domestic and
As lawyers, LFK
are practiced in t
persuasion. Join
Policy Media Co
share your talent
communicating l
policies with oth
radio and televis
Join today

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transformed one of the largest and most active District Attorney's offices in the nation into an efficient crime-fighting organization. He started a white-collar crime unit, a program for fast-tracking violent crimes to trial, and a victim's rights unit that was the first of its kind in Massachusetts and one of the first in the nation.

-Protecting Our Communities

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Paid for and authorized by Kerry-Edwards 2004, Inc.

Financial Data

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Get Informed

John Kerry
Thomas Hulse Kerry
John Edwards
Elizabeth Edwards
Press Room
Official Blog
Rapid Response
On The Road
Communities
In Español

Plan for America
National Security
Economy & Jobs
Health Care
Energy Independence
Homeland Security
Education
Environment
More Issues...

Take Action
Contribute to DNC
Be a Volunteer
Volunteer Center
Recruit Friends
Voter Outreach
Contact Media
Raise Money
Plan/Attend Events

Media/Video
Video
TV Spots
Photo Gallery
Downloads

Resources
Kerry Gear
Contact Us
In Your State
Register to Vote
My Profile

Search

Home Communities "Lawyers"

Lawyers for Kerry-Edwards

Get involved locally by emailing a Lawyers for Kerry-Edwards Coordinator in your state by clicking on a link below:

Alabama

State Contact: Greg Hawley

Arizona

State Contacts: Scott Sales, Dave Goldwin, Bruce Hurlin

California

Los Angeles: Nancy McCullough

Sacramento: Norman C. Hill

San Diego: John B. McNeese, Dan Mogin

San Francisco: Judy Keyes, Bill Orrick, James Martham

Colorado

State Contact: Tom Strickland

Florida

State Contact: Mark Schnapp

Georgia

Atlanta: David Keating, John Winer

Illinois

Chicago: Tom Quinn

Iowa

State Contacts: Brent R. Appel, Mark Beltrame

Massachusetts

Boston: Mark Berman, Barry White, Jim Tierney

Michigan

Go

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State Contact: Marie T. Racine

Minnesota

State Contact: Steve Carlson

Montana

State Contact: Robert Carlson

Nevada

State Contact: Steve Walther

New Hampshire

State Contact: Scott O'Connell

New Mexico

Albuquerque: Michael Cadigan, Eric Jeffries

Sante Fe: Steve Durkovich

New York

State Contacts: Doug Dunham, Laurie Rothenberg

North Carolina

State Contacts: Sam Poole, David Erman

North Dakota

State Contacts: Don Kautzmann, Jeff Wellum

Ohio

State Contact: Ross Fulton

Akron: Rhonda Gail Davis

Canton: Allen Schulman, Jr.

Cincinnati: Mark Vanderlaan, Jerry Harris

Cleveland: John F. Lewis, Dennis Lansdowne

Columbus: Philip Fulton, John Gilligan

Dayton

Toledo: Stephen Collier, Keith Wilkowski

Oklahoma

State Contact: Steve Davis

Pennsylvania

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Philadelphia: Mark Alderman, Joe Manko

Pittsburgh and Western PA: David Ehrenworth

South Carolina

State Contact: Bill Nettles

Tennessee

State Contact: Michael Brennan

Texas

State Contact: Richard Pena

Austin: Steve McConnico, Timothy Sulak

Brownsville: Frank Costilla, David Sanchez

Corpus Christi: Augie Rivera

El Paso: Steve James, Hector Zavaleta

Ft. Worth: Jim Barlow, Steve Maxwell

Houston: Dave Matthiesen, Scott Partridge, Kenneth Broughton

Lubbock: John Sims, Ralph Brock

McAllen: Gina Benavides, Bobby Ramirez

North Texas: Howard Watt, Curtis Cline-Smith

San Antonio: Tom Crooley, Frank Burney

Vermont

State Contact: Jeffry Taylor

Washington

Seattle: Llewelyn G. Pritchard, Anna M. Radman

Washington, D.C.

District Contacts: Alan Baron, J.T. O'Leary, Greg Corbett

Wisconsin

State Contact: Dick Padell

Printer Friendly Version

Forward to a Friend

Lawyers and Law Students for Kerry-Edwards

First name*

Last name*

Address 1

Address 2

City

State

Zip

Phone

Cell Phone

Email*

Are you a Lawyer?

☐ Yes

☐ No

States Licensed to Practice Law:

Employer

Law School Attended:

Are you a Law Student?

☐ Yes

☐ No

Current Law School

We may provide your contact information to the Democratic National Committee for ballot protection efforts.

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BEFORE THE FEDERAL ELECTION COMMISSION

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL

MAY 30 P 4 26

In the Matter of the Democratic Party
Ballot Access Litigation Against
the Nader-Camejo 2004 Presidential Campaign

MUR # 6021

RECEIVED
FEC MAIL CENTER
MAY 30 PM 4 06

COMPLAINT

Ralph Nader, 2004 independent candidate for President of the United States (the "Complainant"), files this Complaint concerning the conduct of the following named and unnamed persons and entities: the Democratic National Committee (DNC); Terry McAuliffe, former Chair of the DNC; John Kerry, 2004 Democratic Party candidate for President; John Edwards, 2004 Democratic Party candidate for Vice President; Kerry for President 2004, Inc., the principal campaign committee of the Kerry-Edwards Campaign; the Democratic Party of Arizona; the Democratic Party of Arkansas; the Democratic Party of Colorado; the Democratic Party of Florida; the Democratic Party of Illinois; the Democratic Party of Iowa; the Democratic Party of Maine; the Democratic Party of Michigan; the Democratic Party of Mississippi; the Democratic Party of Nevada; the Democratic Party of New Hampshire; the Democratic Party of New Mexico; the Democratic Party of Ohio; the Democratic Party of Oregon; the Democratic Party of Pennsylvania; the Democratic Party of Washington; the Democratic Party of West Virginia (Kanawha County); the Democratic Party of Wisconsin; the Section 527 organizations United People for Victory/United Progressives for Victory, the National Progress Fund, The Ballot Project, Americans for Jobs, America Coming Together, and

70. The Begley Law Firm, PLLC is a Mississippi law firm that represented parties attempting to deny Nader-Camejo ballot access in Mississippi. The law firm's address is 123 North State Street, Jackson, Mississippi, 39201.

71. Pigott, Reeves, Johnson and Minor, P.A. is a Mississippi law firm that represented parties attempting to deny Nader-Camejo ballot access in Mississippi. The law firm's address is 75 North Congress Street, Jackson, Mississippi, 39202.

72. Samuel L. Begley is an attorney with the Begley Law Firm who represented parties attempting to deny Nader-Camejo ballot access in Mississippi.

73. Brad Pigott is an attorney with Pigott, Reeves, Johnson and Minor, P.A. who represented parties attempting to deny Nader-Camejo ballot access in Mississippi.

74. Wayne Dowdy is the Mississippi Democratic Party Chair and DNC official who initiated legal proceedings in an attempt to deny Nader-Camejo ballot access in Mississippi.⁵⁵

75. Richard Davidson is a Democratic Party representative or attorney who represented parties attempting to deny Nader-Camejo ballot access in Mississippi.

76. Lionel, Sawyer and Collins is a Nevada law firm that represented parties attempting to deny Nader-Camejo ballot access in Nevada. The law firm's address is 1700 Bank of America Plaza, 300 South Fourth Street, Las Vegas, Nevada, 89101.

77. Paul E. Larsen and Allen J. Wilt are attorneys with Lionel, Sawyer who represented parties attempting to deny Nader-Camejo ballot access in Nevada.

78. Iva Glinka is the Nevada State Democratic Party's Director of Information and Technology, who assisted in the attempt to deny Nader-Camejo ballot access in Nevada.

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87. Kathleen Sullivan is the New Hampshire Democratic Party Chair and DNC official who initiated legal proceedings in an attempt to deny Nader-Camejo ballot access in New Hampshire.⁵⁶

88. Jeffries, Rugge and Rosales, P.C. is a New Mexico law firm that represented parties attempting to deny Nader-Camejo ballot access in New Mexico. The firm's address is 901 Rio Grande Boulevard, NW, Suite G-250, Albuquerque, New Mexico, 87104.

89. Rodey, Dickason, Sloan, Akin, and Robb, P.A. is a New Mexico law firm that represented parties attempting to deny Nader-Camejo ballot access in New Mexico. The firm's address is 201 Third Street NW, Suite 2200, Albuquerque, New Mexico, 87103.

90. Jones, Sneed, Wertheim and Wentworth, P.A. is a New Mexico law firm that represented parties attempting to deny Nader-Camejo ballot access in New Mexico. The firm's address is 215 Lincoln Avenue, Santa Fe, New Mexico, 87504.

91. Eric Sedillo Jeffries is an attorney with the law firm Jeffries, Rugge who represented parties attempting to deny Nader-Camejo ballot access in New Mexico. Mr. Jeffries was the New Mexico contact for Lawyers for Kerry, a group of lawyers recruited by the Kerry-Edwards Campaign "to monitor elections and enforce the law."⁵⁷

92. Andrew G. Schultz is an attorney with the law firm Rodey, Dickason who represented parties attempting to deny Nader-Camejo ballot access in New Mexico.

93. Jerry Todd Wertheim is an attorney with the law firm Jones, Sneed who represented parties attempting to deny Nader-Camejo ballot access in New Mexico.

⁵⁶ See Exhibit 27, DNC Membership Roster, 2004-2005.

⁵⁷ See Exhibit 30, Lawyers for Kerry Contact Sheet and Sign-Up Form

101. Eastman and Smith, Ltd. is an Ohio law firm that represented parties attempting to deny Nader-Camejo ballot access in Ohio. The firm's address is One Seagate, 24th Floor, Toledo, Ohio, 43604.

102. Donald J. McTigue of the Law Offices of Donald J. McTigue is an attorney who represented parties attempting to deny Nader-Camejo ballot access in Ohio. Attorney McTigue represented the Ohio Democratic Party during the 2004 election and John Kerry during the 2004 election Ohio recount.³⁹ Mr. McTigue's address is 3886 North High Street, Columbus, Ohio, 43214.

103. John P. Gilligan, Russell J. Kuttell and Steven D. Ferry are attorneys with Schottenstein, Zox who represented parties attempting to deny Nader-Camejo ballot access in Ohio. John Gilligan was an Ohio contact for Lawyers for Kerry, a group of lawyers recruited by the Kerry-Edwards Campaign "to monitor elections and enforce the law."⁴⁰

104. Andrew B. Clubeck, Jennifer Levy and Gregory F. Corbett are attorneys with Kirkland and Ellis who represented parties attempting to deny Nader-Camejo ballot access in Ohio. Mr. Corbett was the Washington, D.C. contact for Lawyers for Kerry, a group of lawyers recruited by the Kerry-Edwards Campaign "to monitor elections and enforce the law."⁴¹

105. Lindsay, Hart, Neil and Weigler, LLP is an Oregon law firm that represented parties attempting to deny Nader-Camejo ballot access in Oregon. The firm's address is 1300 SW Fifth Avenue, Suite 3400, Portland, Oregon, 97201.

³⁹ See Exhibit 31, Donald McTigue Email and Letter.

⁴⁰ See Exhibit 38, Lawyers for Kerry Contact Sheet and Sign-Up Form

⁴¹ See Exhibit 38, Lawyers for Kerry Contact Sheet and Sign-Up Form

professional matters,⁹¹ dedicated at least 18 attorneys to Respondents' Pennsylvania lawsuit. Reed Smith attorneys reportedly spent at least 1,300 hours preparing Respondents' complaint, which the firm billed as "charity," without charging any client.⁹² In addition, Attorney Donald J. McTigue, whom Mr. Kerry appointed to represent the Kerry-Edwards Campaign during the Ohio recount of the 2004 election, also represented the Ohio Democratic Party in its lawsuit against Nader-Camejo.⁹³ Finally, in May 2004 Mr. Kerry told Mr. Nader that he had assembled a team of 2,000 lawyers in preparation for the 2004 campaign – an apparent reference to the group Lawyers for Kerry.⁹⁴ At least four attorneys affiliated with this group, Gregory Corbett of Kirkland and Ellis, John Gilligan of Schottenstein, Zox and Dunn, Eric Sedillo Jeffries of Jeffries, Ruggie and Rosales and William Gordon of Sheller, Ludwig and Bodey, represented parties that sued Nader-Camejo in 2004 (in Ohio, New Mexico and Pennsylvania).⁹⁵ The Lawyers for Kerry sign-up form on the Kerry-Edwards campaign website states that "We may provide your contact information to the Democratic National Committee for ballot protection efforts," thus providing further confirmation of direct coordination between the Kerry-Edwards campaign, the DNC and the lawyers who pursued Respondents' litigation against Nader-Camejo.⁹⁶

⁹¹ See Exhibit 40, Eric Hays, "Papers want to unseal Sen. Holm's estate records," *Pittsburgh Tribune-Review*, Aug. 18, 2004 ("The Kerry campaign refused comment to attorney Paul Ruckert," a partner in Reed Smith's New York office; Shannon Duffy, "Bill Rustling," *The Legal Intelligence Online* (July 13, 2006) (reporting that Reed Smith represented Mr. Kerry in a lawsuit arising out of the 2004 election); see also Tom Freeman, "Pittsburgh Steel," *Legal Business* (Dec. 2006-Jan. 2007) ("Holm [Corporation and Family Foundation] is still a major and active client").

⁹² See Exhibit 41, Carlyn Kellner, "Anti-Nader soldiers: a massive pro home effort works to block a third-party ballot spot in the Keystone State," *American Lawyer* (Oct. 1, 2004).

⁹³ See Exhibit 31, Donald McTigue Letter; Donald McTigue Email.

⁹⁴ See Exhibit 30, Lawyers for Kerry Contact List and Sign-Up Form.

⁹⁵ *Id.*; Exhibit 33, William S. Gordon Etc.

⁹⁶ See Exhibit 30, Lawyers for Kerry Contact List and Sign-Up Form.

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222. On September 3, 2004, Wayne Dowdy, DNC official and Chairman of the Mississippi Democratic Party, filed a complaint on behalf of the party with the Mississippi State Board of Election Commissioners, challenging Nader-Camejo's nomination papers under Miss. Code Ann. 23-15-963. The complaint identified Samuel L. Begley and Begley Law Firm, PLLC as attorneys for the plaintiffs.

223. On September 7, 2004, the Board of Election Commissioners held a hearing on the complaint. Mr. Begley, Brad Pigott of Pigott, Reeves, Johnson and Minor, P.A., and Richard Davidson represented the Democratic Party at the hearing. At the hearing's conclusion, the Board denied the Democratic Party's complaint. Nader-Camejo appeared on the Mississippi ballot as candidates in the 2004 presidential election.

224. FEC records indicate that the DNC paid the Begley Law Firm legal consulting fees of \$6,501 on October 15, 2004.¹²⁰

10) Respondents filed a complaint against the Nader-Camejo Campaign in Nevada.

225. On August 24, 2004, registered Democrats Renee McKinley and Joan T. Ward, joined by registered voter Myrna McKinley and the Nevada State Democratic Party, filed a complaint in Nevada's First Judicial District Court challenging Nader-Camejo's nomination papers under Nev. Rev. Stat. Ann. § 298.109. The complaint and subsequent court filings identified Paul E. Larsen, Allen J. Wilt, and the law firm of Lionel, Sawyer and Collins as attorneys for the plaintiffs.

226. On August 30, the District Court commenced a three-day expedited hearing to consider the complaint. Ian Glinka, Director of Information Technology for the

Nevada State Democratic Party, testified that he had reviewed Nader-Camejo's nomination papers and concluded that thousands of signatures were invalid.

227. On September 1, 2004, the District Court denied plaintiffs' complaint, and they appealed to the Nevada State Supreme Court, which affirmed the District Court on September 15, 2004. Nader-Camejo appeared on the Nevada ballot as candidates in the 2004 presidential election.

11) Respondents file two complaints against the Nader-Camejo Campaign in New Hampshire.

228. On September 7, 2004, DNC official and New Hampshire Democratic Party Chair Kathleen Sullivan and the New Hampshire Democratic State Committee filed a complaint with the New Hampshire Ballot Law Commission challenging Nader-Camejo's nomination papers under RSA 655:44.

229. On September 13, 2004, Kathleen Sullivan and New Hampshire voters Hazel R. Tremblay, Doris M. Grizzard and Brian Farias filed a second complaint challenging Nader-Camejo's nomination papers under RSA 655:44. The complaint identified Martha Van Oot, Emily Gray Rice and the law firm Orr and Reno, P.A. as attorneys for the plaintiffs.

230. Ms. Van Oot and Ms. Rice worked on the lawsuit in coordination with Kathleen Sullivan and Judy Reardon, the Kerry-Edwards Campaign's deputy national director for northern New England. Ms. Reardon drafted the complaint, while Ms. Van Oot made hand-written revisions, which were circulated to Ms. Sullivan, Ms. Reardon

²²⁹ See Center for Responsive Politics, Democratic Party 2004 Election Cycle Expenditures (citing FEC data), available at <http://www.opencandidate.org/finance/2004/DCParty-2004> (last visited March 11, 2008).

and attorneys Mark Atkins of Wells, White and Fountain, Burt Nadler of Petrucelli and Nadler, and Martin Honigberg of Sulloway and Hollis.¹²¹

231. On September 24, 2004, the Commission voted unanimously to deny the two complaints. Nader-Camejo appeared on the New Hampshire ballot as candidates in the 2004 presidential election.

232. The Kerry-Edwards Campaign paid Ms. Reardon \$64,000 from March to July, 2004.¹²²

12) Respondents filed a complaint against the Nader-Camejo Campaign in New Mexico.

233. At the 2004 Democratic National Convention, The Ballot Project president Toby Moffett told New Mexico State Democratic Party Chair and DNC official John Wertheim that he should appoint someone to spearhead the party's efforts to deny Nader-Camejo ballot access in New Mexico. Mr. Wertheim agreed to do so, stating, "This is a central focus of my own duties as chairman."¹²³

234. On September 10, 2004, attorney Eric Sedillo Jeffries, the New Mexico contact for the group Lawyers for Kerry,¹²⁴ wrote to New Mexico's Secretary of State that he represented "at least three Democrats who will probably be filing a suit on the Nader petitions received by your office." On the last page of Attorney Jeffries' letter, he indicated that he had copied several parties, including the clients referenced above and Mr. Nader. Attorney Jeffries used the standard "cc:" designation to indicate this fact. On a separate page of the letter, which was otherwise blank, Attorney Jeffries indicated that

¹²¹ See Exhibit 9, Email from Kerry-Edwards Campaign Deputy National Director Judy Reardon.

¹²² See Exhibit 51, Center for Responsive Politics Judy Reardon Salary Report.

¹²³ See Exhibit 34, Steve Turrell, "Tears of Nader Keep Democrats on Offensive," *The New Mexican* (July 29, 2004).

¹²⁴ See Exhibit 30, Lawyers for Kerry Contact Sheet and Sign-Up Form

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he had privately copied three additional parties via email. Jeffries used the standard "bcc:" designation to indicate this fact. The three additional parties were New Mexico State Democratic Party Deputy Executive Director Gideon Elliot, New Mexico State Democratic Party Chair and DNC official John Wertheim, and attorney Andrew Schultz.¹²⁵

235. On September 15, 2004, plaintiffs Moises Griego, Richard W. Kirschner, Abraham Gutman, Vanessa M. Alarid and Laura LaFlamme filed a complaint in the Second Judicial District Court of New Mexico, presumably under N.M. Dist. Ct. R.C.P. 1-096, seeking a preliminary injunction to prevent the Secretary of State from placing Nader-Camacho on New Mexico's ballot as candidates for President and Vice President of the United States. The complaint identified Eric Sedillo Jeffries, Andrew G. Schultz, the law firm Jeffries, Rugga, and Rowles, P.C., and the law firm Rodey, Dickason, Sloan, Akin and Robb, P.A. as attorneys for the plaintiffs.

236. On September 17, 2004, District Court Judge Wendy York issued an order denying Nader-Camacho's right to run as independent candidates for President and Vice President in New Mexico. Three days later, several New Mexico voters revealed that Judge York had donated \$1,000 to Democratic presidential candidate John Kerry's campaign. Judge York's order was vacated, and she recused herself from the case. That same day, District Court Judge Theresa Baca issued an identical order.

237. On September 23, 2004, pursuant to Nader-Camacho's appeal, the New Mexico State Supreme Court stayed the District Court's order, and directed the Secretary of State not to destroy or distribute any ballots pending further order. That same day, three registered New Mexico voters filed a complaint seeking injunctive relief in the

¹²⁵ See Exhibit 32, Court Filing by Eric Sedillo Jeffries; Exhibit 27, DNC Membership Roster 2004-2008.

252. On September 28, 2004, pursuant to hearings on Respondents' complaints, the Secretary of State invalidated 2,756 more signatures on a variety of grounds and reversed certification of Nader-Camejo's petition.

253. On October 6, 2004, Nader-Camejo filed for injunctive relief in the United States District Court for the Southern District of Ohio, Eastern Division. On October 7, 2004, the plaintiffs filed a motion to intervene, asserting that they "are truly the real parties in interest here." The court granted the plaintiffs' motion to intervene and denied Nader-Camejo's motion for injunctive relief on October 12, 2004. Nader-Camejo appealed to the Sixth Circuit Court of Appeals, which denied the appeal on or about October 18, 2004.

254. On October 19, 2004, the Ohio Supreme Court denied Nader-Camejo's request for a writ of mandamus. Nader-Camejo did not appear on the Ohio ballot as candidates in the 2004 presidential election.

255. According to the *Toledo Blade*, the Ohio challenge to Nader-Camejo's nomination papers was "filed by attorneys hired by or allied with the Ohio Democratic Party...[as] part of a nationwide effort to prevent Mr. Nader from siphoning votes from Democratic presidential candidate John Kerry."¹²⁷ Attorney McTigue identified the Ohio Democratic Party as his client in an email to Ohio county boards of elections on August 22, 2004, in which he requested the boards to review Nader-Camejo's nomination petitions for "errors and deficiencies" he claimed to have identified.¹²⁸ Attorney McTigue also represented the Kerry-Edwards Campaign during the Ohio recount of the 2004

¹²⁷ See Exhibit 53, James Drew, "Blackwell Orders Removal of Nader from Ohio's Nov. 2 Ballot," *Toledo Blade* (Sep. 28, 2004).

¹²⁸ See Exhibit 51, Donald McTigue Email and Letter.

presidential election.¹²⁹ In addition, Attorney Gilligan of Schottenstein, Zox and Dunn was the Columbus, Ohio contact and Attorney Gregory Corbett of Kirkland and Ellis was the Washington, D.C. contact for the group Lawyers for Kerry.¹³⁰

256. FEC records indicate that the DNC retained Schottenstein, Zox and Dunn and paid the firm \$39,486 in legal and political consulting fees in September and October of 2004. The DNC also retained Kirkland and Ellis, and paid the firm \$247,711 in legal and political consulting fees in September and November of 2004.¹³¹

14) Respondents intervened in proceedings to deny Nader-Camejo ballot access in Oregon.

257. In April 2004, a spokesperson for the Democratic 527 organization ACT told CBS News, "If we think it gets to a point where we need to step in and mobilize to make sure [Nader-Camejo] doesn't get on the ballot, then we will." Later that month, according to CBS, "ACT joined forces with other organizations in the state to discourage people from signing the petition" at Nader-Camejo's April nominating convention, causing the convention to fall short of the 1,000 signing attendees necessary to qualify for ballot access under state law.¹³²

258. On June 26, 2004, Nader-Camejo held another nominating convention. This time Oregon Democrats, acting under false pretenses, took seats at the convention but refused to sign Nader-Camejo's petitions. The Democrats acted pursuant to an email Multnomah County Democratic Party official Moses Ross sent to party members, stating:

¹²⁹ *Id.*

¹³⁰ See Exhibit 36, Lawyers for Kerry Contact Sheet and Sign-Up Form.

¹³¹ See Center for Responsive Politics, Democratic Party 2004 Election Cycle Expenditures (citing FEC data), available at <http://www.opencrs.org/open/crispand.asp?Cate=DPC&cycle=2004> (last visited March 11, 2005).

¹³² See Exhibit 54, Clothilde Ewing, "Nader's Tough Road Ahead," CBS News (April 30, 2004).